Federal Court  Cour fédérale

Date: 20240305

Docket: IMM-880-22

Citation: 2024 FC 358

Ottawa, Ontario, March 5, 2024

PRESENT: The Honourable Madam Justice Heneghan

BETWEEN:

ELIYAHU AYOUN

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS AND JUDGMENT

[1] Mr. Eliyahu Ayoun (the "Applicant") seeks judicial review of the decision of an officer (the "Officer") refusing his application for permanent residence from within Canada on Humanitarian and Compassionate ("H and C") grounds, pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the "Act"). His H and C application

included his wife, Mrs. Viktoriya Ayoun, and their sons, Mr. Aviv Ayoun and Mr. Daniel Ayoun, then a minor.

[2] The Applicant and his family are citizens of Israel. They entered Canada in July 2018, when the Applicant held a work permit. In April 2021, they submitted their H and C application.

[3] In refusing that application, the Officer purported to address the degree of their establishment in Canada, the best interests of the then minor child, and country conditions in Israel.

[4] The Applicant now argues that the Officer made unreasonable conclusions.

[5] The Minister of Citizenship and Immigration (the "Respondent") submits that the decision is reasonable and judicial intervention is unwarranted.

[6] Following the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019] 4 S.C.R. 653 (S.C.C.), the decision of the Officer is reviewable on the standard of reasonableness.

[7] In considering reasonableness, the Court is to ask if the decision under review "bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision"; see *Vavilov*, *supra* at paragraph 99.

[8] I agree with the submissions of the Applicant that the Officer unreasonably dealt with the country condition evidence by apparently requiring the family to show that they were at greater risk of becoming victims of violence than the general Israeli population.

[9] It is not necessary for me to address the other arguments advanced by the Applicant.

[10] In the result, the application for judicial review will be allowed, the decision will be set aside, and the matter will be remitted to another officer for redetermination. There is no question for certification.

JUDGMENT IN IMM-880-22

THIS COURT'S JUDGMENT is that the application for judicial review is allowed, the decision of the Officer is set aside, and the matter is remitted to another officer for redetermination. There is no question for certification.

"E. Heneghan"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-880-22
STYLE OF CAUSE:	ELIYAHU AYOUN v. THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	FEBRUARY 28, 2024
REASONS AND JUDGMENT:	HENEGHAN J.
DATED:	MARCH 5, 2024

APPEARANCES:

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Bradley Gotkin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

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Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT